

S
328.3
L13r11
1964

MONTANA STATE LIBRARY
930 East Lyndale Avenue
Helena, Montana 59601

STATE DOCUMENTS

PUBLIC OFFICIAL AND EMPLOYEE BONDS

FEES COLLECTED BY STATE AGENCIES



Montana Legislative Council

November 1964

Report Number 11

Montana State Library



3 0864 1004 3899 6

**PUBLIC OFFICIAL AND
EMPLOYEE BONDS**

**FEES COLLECTED BY
STATE AGENCIES**

**A REPORT TO THE THIRTY-NINTH
LEGISLATIVE ASSEMBLY**

by the

Montana Legislative Council

November 1964





To Members of the Thirty-ninth Legislative Assembly:

This report briefly treats two diverse subjects—Public Official and Employee Bonds, and Fees Collected by State Agencies. The Fidelity Bonds and Custodial Institutions Subcommittee supervised the research involved in producing Part I of the report. Part II was prepared under the direction of the Agency Fees and Property Classification Subcommittee.

The recommendations relating to bonding of officers and employees are aimed at providing better coverage at a reduced cost. If approved, the proposal would also relieve the legislature of the task of reviewing specific statutory bonding requirements.

The report on Fees Collected by State Agencies has as its purpose the revision of certain fees to bring them into line with the increased costs of state government. If the recommendations to revise the fee schedules are adopted, the state will realize about \$333,000 annually in additional revenue.

Respectfully submitted,

SENATOR W. A. "Bill" GROFF
Chairman
Montana Legislative Council

MONTANA LEGISLATIVE COUNCIL

1963-1964

SENATE MEMBERS

W. A. "Bill" Groff, Chairman
Edward T. Dussault
W. H. Grieve
John D. Melcher
Earl Moritz
Carl Rostad, Secretary

HOUSE MEMBERS

Henry S. Hibbard, Vice Chairman
Francis Bardanouve
Mark S. Etchart
W. L. Mathers
Leonard D. Regan
Ray J. Wayrynen

EXECUTIVE DIRECTOR

Eugene C. Tidball
State Capitol
Helena

SUBCOMMITTEES

Legislative Rules

Representative Henry S. Hibbard, Chairman
Senator W. A. Groff
Senator Robert A. Durkee
Senator Jack S. Brenner
Representative William E. Spahr
Representative Alex Blewett, Jr.

Investments

Senator Edward T. Dussault, Chairman
Representative Francis Bardanouve
Representative Leslie Eskildsen
Senator William R. Mackay
Senator A. Ronald McDonnell
Representative Norris Nichols

Liquor Control

Representative Ray J. Wayrynen, Chairman
Senator W. H. Grieve
Senator David F. James
Representative Leonard G. Bashor
Senator Carl Lehrkind, Jr.
Representative J. A. Turnage

Personnel & Retirement Systems

Senator Carl Rostad, Chairman
Representative Leonard D. Regan
Senator Jerry W. Breen
Representative Malcolm E. Holtz
Senator Ward H. Beley
Representative Eugene C. Egan

Fidelity Bonds & Custodial Institutions

Representative W. L. Mathers, Chairman
Senator Earl Moritz
Representative Virgil L. Hanks
Senator Arnold Rieder
Senator Gordon McGowan
Representative Ralph J. Beck

Agency Fees & Property Classification

Senator John D. Melcher, Chairman
Representative Mark S. Etchart
Senator Jack S. Brenner
Senator Ed Carney
Senator Richard Nixon
Representative Walter Laas
Representative James P. Lucas
Representative Marshall H. Murray

Council Rules

Senator Edward T. Dussault, Chairman
Representative Mark S. Etchart

Budget, Personnel & Meetings

Representative Francis Bardanouve, Chairman
Senator Edward T. Dussault
Senator Carl Rostad
Representative W. L. Mathers

TABLE OF CONTENTS

	Page
LETTER OF TRANSMITTAL.....	iii
LEGISLATIVE COUNCIL MEMBERSHIP.....	iv

PART ONE

PUBLIC OFFICIAL AND EMPLOYEE BONDS

HOUSE JOINT RESOLUTION NO. 9.....	1
PUBLIC OFFICIAL AND EMPLOYEE BONDS	2
INTRODUCTION	2
THE NATURE OF SURETYSHIP.....	2
TYPES OF COVERAGE.....	2
FORM OF BONDS.....	3
PRACTICES IN MONTANA.....	4
RECENT STUDIES IN OTHER STATES.....	5
PRACTICES IN OTHER STATES.....	6
CONCLUSIONS	7
RECOMMENDATIONS	7

PART TWO

FEES COLLECTED BY STATE AGENCIES

SENATE RESOLUTION NO. 10.....	11
FEES COLLECTED BY STATE AGENCIES	12
CONCLUSIONS	13
RECOMMENDATIONS	15
APPENDIX	23



PART ONE

**PUBLIC OFFICIAL
AND
EMPLOYEE BONDS**



HOUSE JOINT RESOLUTION NO. 9

Introduced by Murray

A JOINT RESOLUTION OF THE SENATE AND HOUSE OF REPRESENTATIVES REQUESTING THE LEGISLATIVE COUNCIL TO CONDUCT A COMPREHENSIVE STUDY OF THE STATUTES AND PRACTICES OF REQUIRING FIDELITY BONDS FOR PUBLIC OFFICIALS IN MONTANA AND REPORT THE FINDINGS OF THAT STUDY TOGETHER WITH RECOMMENDATIONS FOR IMPROVEMENTS TO THE THIRTY-NINTH LEGISLATIVE ASSEMBLY.

WHEREAS, at the present time there are at least one hundred seventy-five sections of the Montana Code relating to fidelity bonds for public officials, and

WHEREAS, in many cases the amount of the bond now required bears little or no relationship to the financial responsibility of the public official, and

WHEREAS, a study conducted in other states with similar bonding provisions to those found in Montana concluded that the bonding provisions were complicated, confused, in many cases failed to provide adequate protection, and in addition were excessively costly to the state, and

WHEREAS, it is very probable that Montana bonding provisions contain many of these same defects, and

WHEREAS, a comprehensive revision of bonding laws would probably simplify procedures, result in better protection, and save a significant amount of money, and

WHEREAS, it is not feasible for the Legislative Assembly to conduct a study of this scope during the short biennial session.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the Legislative Council is hereby requested to conduct a comprehensive study of the fidelity bonding requirements contained in Montana laws together with the actual procedures employed in bonding public officials.

BE IT FURTHER RESOLVED, that the Legislative Council submit a comprehensive report of this study to the Thirty-Ninth Legislative Assembly, together with recommendations, and proposed legislation where necessary, for improvements in the Montana bonding laws and procedures.

PUBLIC OFFICIAL AND EMPLOYEE BONDS

Introduction

House Joint Resolution No. 9 directed the Legislative Council to conduct a comprehensive study of fidelity bond requirements for state officials and employees.

Generally speaking, the adoption of the proposed legislation will accomplish three things. (1) It will eliminate the need for review by the legislative assembly of specific statutory requirements for the bonding of officials and employees. (2) It will provide immeasurably better coverage by requiring all state employees and officers to be bonded, and (3) It will result in a substantial decrease in expenditures for bonding state officers and employees.

The Council wishes to express its gratitude to Mr. William A. Rossiter, Manager, and Mr. Denis Twohig, Bond Underwriter, of the Helena office, United States Fidelity and Guaranty Company, and to the Surety Association of America for the assistance and information provided during the course of this study.

The Nature of Suretyship

Suretyship may be defined as a contractual agreement by which one person agrees to be answerable for the debt or default of another. Every suretyship involves three parties: (a) the principal, whose debt or default is the subject of the transaction; (b) the obligee, to whom the debt or obligation runs; and (c) the surety, who undertakes on his own part to perform the debt or obligation running from the principal to the obligee if the principal does not.

Bonds are sometimes erroneously confused with insurance policies. An insurance policy is a two party agreement by which the insurer agrees to pay, directly to the insured, losses which are covered by the terms and conditions of the policy. On the other hand, a bond requires the surety to pay, not to the principal but to the obligee, losses which the obligee has suffered because of derelictions of the principal.

A second distinct difference between an insurance policy and a bond is that usually the insurer, in case of a loss, pays to the insured the loss sustained with no right to recover anything from the insured. Under a surety bond, however, if the surety is required to pay the obligee a loss caused by the principal, the surety has the legal right to demand restitution from the principal. Thus, the bond in no sense protects the principal.

Types of Coverage

"Official bonds" is the name by which bonds are called when the obligee is a governmental unit or the public generally, and the principal is a public officer or employee. The two most common types of coverage are faithful performance and honesty.

A faithful performance bond usually covers losses resulting from the failure of the principal to "perform faithfully his duties or to account properly for all monies and property received by virtue of his position." Under a faithful performance bond, a public officer and his surety are liable to the obligee for any injury sustained by the obligee in consequence of misfeasance, malfeasance or nonfeasance of the officer. For example, when a clerk of court failed to insert in a record of a judgment the amount recovered, and the judgment creditor lost his remedy in execution because of the omission, the sureties upon the bond of the clerk were held liable. Also, when an officer seized property in execution or attachment and through want of proper care it was damaged while in his possession, and when a clerk of

court lost papers entrusted to his keeping which resulted in damage to a litigant, the sureties were held liable. The sureties of a public officer are not liable for errors in the judgment of the principal except for those errors which result from negligence or failure to make the proper effort to ascertain the duty to be performed.

Under an honesty bond the obligee is insured against any loss caused by the principal "through any fraudulent or dishonest act".

Faithful performance coverage sometimes protects the general public as well as the state against misfeasance or nonfeasance in office; under honesty coverage the state is normally the beneficiary of payments from the surety. However, standard blanket bond forms often provide that the surety will indemnify the state only for "losses sustained by the insured [the state agency] through the failure of an employee to perform faithfully his duties," thus excluding members of the public as beneficiaries. Because the state of Montana is immune to tort actions except to the extent of insurance coverage, this exclusion precludes recovery by the public for damages resulting from misfeasance or nonfeasance of a public officer or employee in the absence of liability insurance. However, as a practical matter, the state is the injured party in most cases. The general public can best be protected through the purchase of liability insurance.

Moreover, by requiring that certain of its officers and employees carry faithful performance bonds, the state is protecting its citizens but not its bonded officers. If the negligence or misconduct of an officer's subordinate causes loss to a third party, the third party may recover under the bond and the surety may recover from the officer.

Statutes requiring that bonds be executed in a certain "penal sum" impose even more onerous burdens on the principal. "Penal sum" means penalty. Regardless of the extent of actual injury suffered, the injured party is entitled to collect liquidated damages in the amount of the penal sum from the surety for any failure on the part of the principal or his deputies to faithfully perform his duties. The surety in turn, may demand restitution from the principal.

Form of Bonds

Official bonds can be drawn to cover individuals or groups in varying ways. The five forms of bonds most commonly used are:

Individual — A bond covering a single, named employee or officer for a specific amount.

Name Schedule—A bond covering named employees or officers listed in a schedule attached to the bond, each for a specified amount.

Position Schedule—A bond covering any employee or officer who, while the bond is in force, occupies and performs the duty of a position listed in the schedule attached to the bond, each position being covered for a specified amount.

Blanket—A bond covering any act or series of acts culminating in a single loss, regardless of the number of employees involved. This form of blanket bond covers not each employee, but each loss.

Blanket Position—A bond covering each employee or officer included in the bonded group up to the amount of the bond. In other words, total coverage is represented by the amount of the bond times the number of employees covered.

Practices in Montana

Of the 7,000 state of Montana officers and employees 3,483 are bonded—274 by individual bonds and 3,209 by 20 separate blanket bonds. The annual premium cost to the state is \$15,317.

Chapters 1 and 3, Title 6, R.C.M. 1947, contain the general laws relating to official bonds of state officers and employees. Section 6-101 specifies the amounts of official bonds for 37 state officers and employees in amounts ranging from \$1,000 each for inspectors of the Livestock Commission to \$200,000 for the State Treasurer.

Section 6-102 provides "all other state officers not mentioned [in Section 6-101] shall give bonds in such amounts as shall be fixed by the state board of examiners." The State Board of Examiners does not effectively regulate or supervise bonding of state employees. When a state agency requests that a particular employee or officer, or group of employees or officers, be bonded, the Board almost invariably approves the request. No records containing information on the experience of surety bonds in state government are maintained in the office of the Board of Examiners.

In addition to the laws in Title 6, there are over 40 separate statutes scattered throughout the codes which establish specific bonding requirements for state officials and employees. The authority to approve bonds has been dispersed among many state agencies. For example, the bond of the Superintendent of State Fisheries is approved by the State Treasurer; the bonds of the secretary and treasurer of the Barber's Examining Board must each be approved by the Governor; the bond of the State Law Librarian is approved by the chief justice of the Supreme Court; the bonds of livestock inspectors and detectives of the Livestock Commission are approved by the Secretary of State; the bonds of treasurers of local executive boards of units of the university system are approved by the Board of Examiners.

Statutory inconsistencies are too numerous to catalogue. As one example, the treasurers of seven professional and occupational licensing boards are required to be bonded—the remaining twelve are not.

Administrative practices are equally inconsistent. In the case of custodial institutions, the Children's Center has provided coverage of \$20,000 on both the business manager and superintendent, each of whom handles as much as \$48,000 in cash, merchandise or securities at one time. On the other hand, the business manager and superintendent of the Industrial School, each of whom handles as much as \$85,000 in cash, merchandise or securities at one time, are not bonded.

The situation in the university system is much the same. The treasurer at Montana State University, who handles as much as \$35,000 at one time, is bonded for \$35,000. At Montana State College a treasurer who handles as much as \$25,000 at one time is bonded for \$50,000. However, the business manager of the School of Mines who may have in his possession as much as \$60,000 at any one time, is bonded in the amount of \$5,000.

Because the purchase of official bonds is almost totally decentralized and unsupervised in Montana, no records exist which make it possible to determine the history of recovery on surety bonds or to otherwise evaluate the bonding program. However, based on interviews with personnel in the Board of Examiners' office and the Attorney General's office it appears that there has been no recovery on bonds of state officers or employees within the last ten years.

Recent Studies in Other States

WISCONSIN

In 1956 the Wisconsin Legislative Council completed a staff report on surety bonding for state officials and employees. As one alternative recommendation the report suggested that authority for bonding officials and employees be centralized in a single officer or agency and that this officer or agency determine the need for coverage and prescribe the form of all surety bonds and insurance policies protecting the state against theft, loss, disappearance or destruction of moneys, securities and property; and that all such bonds and insurance be purchased competitively through the state's central purchasing agency.

The report also stated that one of the reasons for bonding is to protect administrators who are bonded and noted that under an official bond, a bonding company will pay the state for losses caused by an unbonded subordinate and collect from the bonded official. However, if the subordinate is bonded, the company must recover from the subordinate.¹

KANSAS

The Kansas Legislative Council conducted a study of the bonding of state officials and employees that extended over a four year period.

One report noted:

Over sixty sections of our statutes dealing with the subject of bonding state personnel were found. Unfortunately, however, the legislation does not reflect anything in the way of established overall principles or policies.

There are numerous conflicts and inconsistencies among these statutes. This situation has arisen because we have little in the way of comprehensive statutes governing bonding, most of our laws on this subject having been written with regard to particular agencies. As the statutes creating or affecting these agencies have been enacted or amended, the bonding provisions of the separate acts seem to have been developed with little regard for comparable provisions affecting other agencies.²

The council believes that one of the most serious inadequacies of the present situation is the absence of any periodic central review, either legislative or administrative, of the state's bonding needs, to determine whether the proper positions are being bonded in the proper amounts and under the proper conditions.³

To correct the confused situation which now exists with regard to bonding, the council favors the establishment of central administrative control and review over the bonding of state officials and employees. To achieve this end, the council recommends, first of all, that the present statutory provisions governing the bonding of state officials and employees be repealed. These provisions should be replaced by a comprehensive act governing bonding. The council recommends that [a state official] be given the authority to determine, on the basis of recommendations by agency heads, the positions to be bonded and the amounts of the

¹ Wisconsin Legislative Council, *Staff Report on Surety Bonding of State Officials and Employees*, (February, 1956).

² Kansas Legislative Council, *Regular Twelfth Biennial Report and Recommendations*, (December 8, 1956) p. 138.

³ *Ibid*, p. 139.

*bonds for any position not enumerated in the proposed act . . . The council believes, in order to be consistent with the principles of good business management, that, in so far as is possible and practicable, all insurance and bonds on officials and employees purchased by the state should be purchased centrally on the basis of competitive bids. Where blanket policies or blanket bonds are obtained through central purchasing, the cost thereof should be charged to the participating agencies on a pro rata basis.*⁴

NEVADA

In 1960 the Nevada Legislative Counsel Bureau completed a study of state bonding practices and recommended that a single state agency be given the responsibility of determining the amount and form of bonds for all state employees; that this agency require either a master single bond or blanket or schedule bonds rather than individual bonds and that faithful performance bonds be required only when necessary, and simple honesty bonds be used where such protection is possible; and that a mandatory statute be enacted requiring the purchase of comprehensive liability insurance coverage for all agencies of government and their employees and public officials.

Practices in Other States

About twelve states have established a system of central administrative review and control over the bonding of state officials and employees.

For example, Vermont has a blanket bond covering all of its 4,000 employees. This bond was let on competitive bid for an annual cost of \$3,259. Bids ranged up to about \$7,000.

New Jersey carries a blanket bond covering 25,000 employees for honesty and 26 for faithful performance. The total annual premium for this bond is \$15,204.

The State of Kentucky covers 18,000 state employees for honesty and 30 for faithful performance under a blanket bond that costs about \$23,500 a year.

Maine bonds 8,000 state employees for faithful performance and honesty at an annual premium cost of \$7,194.

Nebraska bonds 12,400 employees at an annual premium cost of \$7,326. The Nebraska Department of Insurance made the following remarks by letter. "To summarize, we in Nebraska bond all employees and officials not individually bonded for at least \$25,000 under the blanket bond. It has been our experience that individual bonds are expensive and unnecessary in comparison with the efficiency and low premium on the blanket bonds which could just as well be used. We sincerely recommend your consideration of utilizing a blanket bond. . ." The Nebraska bond was secured on competitive bid.

The State of Washington secures a blanket bond covering approximately 25,000 state employees on competitive bid for an annual premium of \$10,233.43. Bids ranged as high as \$40,000.

⁴ *Ibid*, p. 140.

Conclusions

When compared to blanket coverage, bonding on an individual basis has a number of disadvantages.

- (1) A separate claim must be prepared and processed for each premium payment.
- (2) Personnel changes may require the cancellation of one bond and the issuance of another, involving additional clerical work as well as added premium costs.
- (3) Many persons who have indirect access to money and property are not covered.
- (4) The agency purchasing the bond must keep a detailed record of each bond in order to maintain proper coverage.
- (5) The premiums on individual bonds are substantially higher than the blanket coverage.

The most serious single flaw in Montana's bonding program is the absence of centralized administrative review and control. Since statehood, the legislature has attempted to fill this vacuum by prescribing in detail the bonding requirements for officers and employees. However, the coverage required by statute is at best sketchy.

Even when the legislature has specified bond requirements for individual officials, its failure to increase statutory minimums set over 50 years ago often has resulted in grossly deficient coverage. Section 6-101, which specifies the bond amounts for 37 state officers and employees, was last amended in 1937. Since that time the amount of money collected and disbursed by state government has increased 1000 percent. The amount of the State Treasurer's bond was set in 1907 and has not been changed since.

Moreover, the fragmentation of responsibility insures inconsistent bonding practices. In many instances, it places the responsibility for determining the adequacy of surety bonds directly in the hands of major elected officials who have neither the time nor competence to perform effectively this relatively minor, but technical duty.

Thus, the legislature's inability to effectively supervise the bonding program has been primarily responsible for the inconsistent and illogical situation which has gradually evolved. However, members of the legislative assembly should not be expected to fritter away their valuable time on ministerial details. They are elected as policy making officials, and the time consumed by deliberating such trivia only detracts from their effectiveness. The obvious answer is for the legislature to establish by law policy guidelines for the bonding of state officers and employees, and to delegate to a single responsible official in the executive branch the responsibility for executing the policy.

Recommendations

The Council recommends that all statutes relating to official bonds be amended or repealed to delete reference to the bonding of state officers and employees, and that authority be vested in the State Controller to purchase all surety bonds for officers and employees on competitive bids. The first five sections of a proposed bill establishing a new system for bonding appears in the Appendix of this report. The remainder of the bill simply deletes reference to the bonding of state officers and employees in specific sections of the code.

The State Controller, as head of the Department of Administration, the state's general housekeeping agency, is the logical official in which to vest this responsibility. Under the proposed law all officers and employees would be bonded. The State Controller would consult with the head of each agency and with the State Examiner to determine the amount of

coverage. He would then purchase the necessary bonds and prorate the cost among the agencies covered, based on the amount of risk in each agency. The form of bonds would be prescribed by the Controller subject to the approval of the Attorney General.

Although the proposed law is not specific on the nature of coverage, the Council recommends that the State Controller give serious consideration to purchasing bonds which only protect the state against loss caused to any of its agencies or institutions, except in instances where the need for broader coverage is indicated. In most cases the lack of faithful performance or honesty on the part of a state officer or employee will result only in loss or damage to the state. Moreover, protecting the general public by means of official bonds increases the vulnerability of employees and officers to lawsuits—in effect, sovereign immunity is removed in selected areas.

The proposed law is broad enough to permit either individual or blanket bonds. However, the purchase of a blanket position bond covering all state employees would probably be most economical. A blanket bond covering each of the 7,000 state employees in the amount of \$10,000 with additional coverage for employees who handle large amounts of money could be obtained at an annual cost of about \$7,000. All employees added or changed during the term of the bond would be covered automatically without additional cost. In addition to a direct savings of more than \$8,000 annually, substantial indirect savings would result from eliminating the negotiations, premium payments and filings by various state agencies now necessitated by individual bond purchases.

A third benefit would be vastly increased protection for the state by virtue of having all of its employees bonded.

Finally, a blanket bond will afford increased protection to state officers because of the bonding of their subordinates. If all employees are covered by a blanket bond an official will not be primarily responsible for the failure of his deputies and subordinates to faithfully perform their duties.

Some representatives of the surety industry have expressed opposition to the requirement of competitive bidding. However, letters from other states indicate that they have experienced no difficulty in obtaining competitive bids for public employee bonds. Even industry publications admit the existence of competition. "The surety industry presents the paradox of having a rating bureau which sets rates for the industry, but which is influenced to a significant degree in that rate-making by the keen competition from non-members."⁵

The Council considered extending this study to the bonding requirements for counties and cities. However, the bonding of employees and officers of local governmental units could not effectively be centralized or supervised in the same manner as the state's bonding program. The State Examiner, who is responsible for auditing counties and municipalities should review the legal requirements for bonding local officials and recommend any needed changes to the legislative assembly.

⁵ Jules Backman, *Surety Rate-Making*, The Surety Association of America, (1948) p. 92.

PART TWO

**FEEs COLLECTED
BY
STATE AGENCIES**

SENATE RESOLUTION NO. 10

Introduced by Mackay, Nixon

A RESOLUTION OF THE SENATE OF THE STATE OF MONTANA REQUESTING THE LEGISLATIVE COUNCIL TO EXAMINE FEES COLLECTED BY STATE AGENCIES AND TO PREPARE A REVISED FEE SCHEDULE FOR CONSIDERATION BY THE THIRTY-NINTH LEGISLATIVE ASSEMBLY.

WHEREAS, many state agencies collect fees for special services rendered or for privileges granted to the persons paying such fees; and

WHEREAS, the purpose of fees for special services is to recover the cost of the services rendered so that the cost thereof will not be defrayed from tax moneys; and

WHEREAS, the purpose of fees for privileges granted is to reimburse the state in an amount which will offset the cost to the state of administering laws relating to the privileged group; and

WHEREAS, because many of these fees have not been revised for long periods of time they are no longer recovering the cost borne by the state with a resulting loss of revenue to the state, and

WHEREAS, because state government is increasingly hard pressed to raise the revenue necessary to finance governmental services, it is appropriate that the possibility of increasing existing non-tax revenue sources be studied.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE STATE OF MONTANA:

That the legislative council examine every fee collected under the laws of the State of Montana to determine whether or not such fee should be revised; and

BE IT FURTHER RESOLVED, that the legislative council prepare for the consideration of the thirty-ninth legislative assembly a revised fee schedule together with implementing legislation where necessary.

FEES COLLECTED BY STATE AGENCIES

Agencies and departments of state government collect fees which range from a few cents to hundreds of dollars. Barbers, plumbers, physicians, teachers, and persons in a variety of other professions and occupations are examined and licensed by the state. Fees are charged for the registration of automobiles, for registration of bee colonies, for audits by the State Examiner, for inspections by the Commissioner of Agriculture, and for the privilege of selling cigarettes. The degree of service or regulation provided by the state varies greatly. Some fees collected provide a substantial source of non-tax revenue. Others do not recover fully the costs of providing the service or regulating the profession or occupation.

While the distinction between fees and taxes may be somewhat academic, it is fair to say that a number of charges have been called fees when, in fact, they are taxes. The fee based on a percentage of insurance premiums written in Montana, gross vehicle weight fees on trucks, and charges for original articles of incorporation based upon capital stock are all examples of fees which are in the nature of taxes—the primary purpose is to raise revenue. Because the study was aimed at adjusting non-tax fees equitably, fees in the nature of taxes were not reviewed.

Receipts from fees are spent in a variety of ways. Some agencies deposit all fee collections in the general fund and are, in turn, appropriated money for operation. Others such as the Fish and Game Department, Registrar of Motor Vehicles, and most professional and occupational licensing boards, deposit fees collected in the earmarked revenue fund and operate on this income. A few agencies deposit some fees in the general fund and others in the earmarked revenue fund.

Non-tax fees can be grouped into two broad categories: (1) service fees, and (2) license fees.

Service fees are collected to reimburse the state for expenses incurred in providing specific, identifiable services. Charges for administering an examination, audits of financial records, copies of official documents, the testing of weighing devices, and grazing or agricultural assignments, are all examples of such services. Often, the state provides the service upon request from an individual; the service is not mandatory, and a charge is made each time the service is rendered. The fee is intended to recover costs involved so that a service rendered to an individual upon request does not result in a burden on the tax resources of the state.

License fees are collected by agencies and departments of state government for granting permission to perform acts which would be illegal without the license or permit. Retail liquor licenses, driver licenses, licenses to engage in certain professions or occupations, and licenses to sell cigarettes are examples of granting permission to perform specified acts. In most cases, performance of the act without permission is a criminal offense. The issuance of a license implies regulation. Fees are charged to defray the cost of issuing the license and the costs incurred in law enforcement or regulation. However, in some instances license fees are also regarded as legitimate revenue sources, which return moneys in excess of costs for license and regulation.

In a few cases a single fee is charged for a service act and the granting of a privilege. Some of the professional and occupational licensing boards, for example, charge a single fee for an examination and license. A service is performed in administering the examination, and a privilege is also granted.

Fees adjusted during the past five years (during the 1959, 1961 and 1963 legislative sessions), were not considered; the study was directed chiefly toward fees which have not been adjusted for long periods of time. Charges made by custodial institutions and university

units were also eliminated from further consideration. Charges for residents of custodial institutions were the subject of recent legislation; the Board of Regents has broad authority for establishing and revising fees and charges at educational institutions.

For each remaining fee, annual collections, date last changed, agency recommendation, and other basic information was compiled. To each fee, an index of the costs to government for goods and services was applied. Based upon the assumption (obviously not always valid) that the fee was reasonable when originally set, the application of this index measures the effect of adjusting a fee to reflect increased costs to government.

After examining this information, the Council eliminated fees of professional and occupational licensing boards from further consideration. Because almost all of these fees are deposited in the earmarked revenue fund and used exclusively for operation of the boards, any problems are essentially budgetary in nature. Therefore, the Council concluded that if additional revenue is necessary, professional and occupational licensing boards should initiate requests for fee adjustments on an individual basis, justifying the need to the legislative assembly.

Agency estimates of costs of providing services were of limited value. In some cases, good estimates of costs were received, but many state agencies do not maintain cost accounting records. In addition, agencies do not include in their estimates a share of the general overhead costs of government. A part of the cost of reconstructing the capitol, maintaining the Attorney General's office and other control agencies, and costs of the legislative and judicial branches should all be considered and allocated among the agencies and departments to arrive at accurate cost figures. The difficulty of estimating and allocating these costs is apparent.

There are also inherent limitations in determining an equitable fee. Even after employing all available data and techniques, a degree of subjectivity remains. Fee adjustments other than those shown in this report, therefore, might well be justified depending upon the factors considered. Of more than 200 fees reviewed by the Council, only a relatively few changes were recommended; the Council recognizes that other adjustments may be desirable.

Conclusions

Because of the budgetary implications, the Council recommends that the Budget Director review all fees periodically and suggest adjustments. The state may have lost thousands of dollars in needed revenue in the past because fees were not reviewed periodically and adjusted. To facilitate this review, information compiled during the study of fees was given to the Budget Director early in 1964 so that the Governor and Budget Director could review the information and recommend additional adjustments if necessary.

Most of the recommended fees are less than the amounts indicated by applying the index of costs to government for goods and services to present fees. Only nine recommended changes are equal to projected fees, and only five exceed the projected fees. Even in the case of the fees which exceed the projected amounts, it is doubtful that the increased fee will enable the state to recover the costs.

After an examination of costs involved in issuing a license or providing a similar service, the Council concludes that most licenses issued (exclusive of enforcement cost) are as costly as writing an average business letter. Today's average business letter of 250 words costs \$2.32, or 35 cents more than that same letter cost in 1962. During the past ten years, the cost of an average business letter has virtually doubled (in 1953 the average cost was \$1.17).¹

¹ The Dartnell Corporation, *Business News Release*, (March, 1964) no pagination.

In addition to the cost of issuing the license, the money collected must be accounted for by four different offices of state government—issuing agency, Controller, Auditor, and Treasurer. Although not strictly comparable to government costs, the American Management Association reviewed the processing of a purchase order through accounts payable and the processing of a customer order through accounts receivable concluding that the standard unit cost for the entire cycle was \$3.53 in 1958. Costs were segregated as follows:²

Preparation of purchase order (including purchase requisition).....	\$1.10
Preparation of receiving report and purchasing follow-up.....	.43
Preparation of voucher and A/P analysis.....	1.60
Stationery forms (for entire cycle).....	.40
TOTAL.....	\$3.53

Finally, after the license has been issued and money collected, the state must maintain official records. A private corporation estimates that it costs more than \$9,000 merely to create the contents of the average four drawer file, and that it costs a minimum of \$2.70 to file and maintain each inch of papers in that file.³ Considering the more stringent requirements for maintenance of official records, it is likely that government costs exceed those of private industry.

Based upon this information, it is apparent that the cost to the state of issuing a license or registering a motor vehicle exceeds \$2.00—aside from enforcement, inspection, accounting, and records maintenance costs.

If the Council's recommendations are adopted, thirty-two fees will be adjusted, one fee added, and one fee eliminated. The state will realize about \$333,000 annually in additional revenue of which \$144,000 will be deposited in the general fund, \$38,000 in the earmarked revenue fund, and \$151,000 will be allocated to the cities and counties for streets and roads each year providing direct property tax relief. Over the next decade, the general fund will receive more than \$1,500,000 in additional revenue, and an amount in excess of that will be distributed to units of local government.

Estimated additional annual revenue, by department, is shown in the table below:

ESTIMATED ADDITIONAL ANNUAL REVENUE FROM FEE ADJUSTMENTS AND DISPOSITION

Department or Agency	General Fund	Additional Annual Revenue	
		Earmarked Fund	Local Gov't.
1. Dept. of Agriculture.....	\$ 5,575	\$	\$
2. State Auditor	560	.....	.....
3. State Board of Equalization.....	5,940	.....	.....
4. State Board of Health.....	10,600	.....	.....
5. Highway Patrol	21,000	420	.....
6. State Board of Land Comm.....	2,700	.....	.....
7. Board of Railroad Comm.....	*	.....	.....
8. Registrar of Motor Vehicles.....	85,000	38,000	151,000
9. Supt. of Public Instruc.....	13,000	.....	.....
TOTALS.....	\$144,375	\$ 38,420	\$151,000

* Change would effect a cost savings and simplification of procedure more than additional fee revenue.

² American Management Association, Inc., *Techniques of Office Cost Control*, (1959) p. 70.

³ Remington Rand, *How to Measure Your Filing Costs and Efficiency*, (no date) p. 2.

Recommendations

Recommended changes are listed on following pages by agency. Column three shows the period when the fee is collected (A indicates annual, I indicates initial charge only, R indicates charges upon each request). Projected amounts shown in column five were computed by applying an index of costs to government for goods and services to the fees. Column eight shows the fund into which receipts are deposited (G indicates general fund, ER indicates earmarked revenue fund).

A bill implementing these recommendations has been prepared, but is not included in this report because it consists primarily of a series of simple amendments substituting the necessary few words in thirty three sections of the code. The sections affected are: Sections 3-2411, 3-2410, 3-2466, 3-2301, 3-2417, 3-2313, 3-2312, 69-1910, 84-2402, 84-2404, 84-2405, 84-2406, 84-2407, 69-518, 69-2905, 31-138, 53-420, 81-419, 81-1113, 81-428, 81-426, 8-108, 8-109, 8-110, 53-108, 53-110, 53-112, 53-113, 53-117, 53-122, 53-139, 75-2521 and 75-3503, R.C.M. 1947.

DEPARTMENT OF AGRICULTURE

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1963	Council Recommendation	Fund
1. Temporary Babcock License.....	\$ 2.00	R	1929	\$ 6.00	....	\$ 5.00 ¹	G
2. Original Babcock license.....	2.00	I	1929	6.00	20	5.00 ¹	G
3. Babcock renewal.....	1.00	A	1929	3.00	134	3.00 ²	G
4. Cream grader license.....	2.00	A	1931	6.00	134	5.00 ¹	G
5. Retail egg license.....	2.00	A	1939	6.00	150	5.00 ¹	G
6. Cream station license.....	5-20.00	A	1929	14-57.00	23 ³	10-20.00 ⁴	G
7. Egg grader license.....	2.50	A	1953	3.00	149	5.00 ⁵	G
8. Egg container seals.....	1.50	R	1939	.....	....	2.00 ⁶	G
						per thousand seals	

¹ Agency recommends fee be set at \$5.00.

² Agency recommends fee be set at \$3.00.

³ Increasing minimum would affect only 5 stations.

⁴ Agency recommends that minimum fee be increased from \$5.00 to \$10.00.

⁵ Agency recommends fee be set at \$5.00.

⁶ Fee of \$2.00 per thousand seals recommended in 1961. Commissioner is authorized to set the fee at not more than 1³/₄ mills per dozen eggs. One seal attached to each carton of one dozen eggs.

REMARKS

The recommended adjustments will result in \$5,575 additional annual revenue to the general fund. Agency recommendation based on cost of providing service.

STATE AUDITOR

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1963	Council Recommendation	Fund
1. Powder magazine license.....	\$1-25.00 ¹	A	1917	\$3-72.00	95 ²	\$5-30.00 ³	G

¹ Section 69-1910, R.C.M. 1947 authorizes a fee "graduated by the State Fire Marshall according to the quantity kept or stored therein, of not less than one dollar nor more than twenty-five dollars."

² Estimated by State Fire Marshall.

³ Agency recommended fee graduated from \$5.00 to \$30.00.

REMARKS

The recommended fee would be graduated by the State Fire Marshall as now provided by Section 69-1910, R.C.M. 1947. Present fees do not cover the costs of providing the inspection and license. The adjusted fee will result in \$560 additional annual revenue to the general fund. Revised fee collections will be slightly in excess of present costs.

STATE BOARD OF EQUALIZATION

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1963	Council Recommendation	Fund
1. Filing fee.....	\$ 0.50	A	1939	\$ 2.00	11,884	Eliminate fee	G
2. Wholesale store license.....	37.50	A	1939	116.00	983	\$ 38.50	G
3. Retail mercantile ¹							
First store.....	5.00	A	1939	15.00		6.00 ²	---
Second store.....	50.00	A	1939	155.00		51.00 ²	---
Third store.....	100.00	A	1939	310.00		101.00 ²	---
Fourth store.....	150.00	A	1939	465.00		151.00 ²	---
Additional stores.....	200.00	A	1939	620.00		201.00 ²	---
4. Other retail ³					10,901		G
First store.....	5.00	A	1939	15.00		6.00 ²	---
Second store.....	7.50	A	1939	23.00		8.50 ²	---
Third store.....	15.00	A	1939	46.00		16.00 ²	---
Fourth store.....	22.50	A	1939	70.00		23.50 ²	---
Fifth store.....	30.00	A	1939	93.00		31.00 ²	---
Additional stores.....	37.50	A	1939	116.00		38.50 ²	---

¹ Businesses other than those licensed under item 4, below.

² Each fee increased \$1.00 to compensate for revenue loss resulting from eliminating filing fee shown as item 1.

³ Applies to gasoline filling stations, lumber yards, hardware stores, grain elevators, and gasoline distributing plants.

REMARKS

It recommended that the 50c filing fee which is coupled directly to store licenses (items 2, 3 and 4 above) be eliminated. To compensate for this loss of revenue, it is further recommended that the fee for each store license be increased by \$1.00. This adjustment will produce \$5,940 additional annual revenue to the general fund.

STATE BOARD OF HEALTH

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1962	Council Recommendation	Fund
1. Copies of birth and death certificates.....	\$ 1.00	R	1936 ¹	\$ 3.00	9,946	\$ 2.00	G
2. Hospital license.....	10.00	I	1947	18.00	78 ²	10.00	G

annually

¹ Fee set prior to 1936.

² Includes 3 new licenses and 75 renewals. Income from new licenses was \$30.

REMARKS

It is recommended that the minimum fee for copies of birth and death certificates be set at \$2.00. It is further recommended that the present \$10.00 hospital license fee be changed from an initial to an annual charge. An inspection must be made of the facility each year at an average cost of about \$50 per inspection.

The Council also considered four store license fees of \$2.00 each, originally set in 1921, but no action was taken on these. The State Board of Health may recommend legislation to eliminate one license (soft drink establishment), the consolidation of other licenses, and a modest increase in fees. The Council agreed that a consolidation of licenses and an adjustment in fees is desirable. Because changes in these fee collections and inspection procedures have implication for public health, the Council recommends that the State Board of Health make specific recommendations for change to the 1965 legislative assembly. Recommended fee adjustments will return \$10,600 additional annual revenue to the general fund.

HIGHWAY PATROL

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1963	Council Recommendation	Fund
1. Duplicate operator license.....	\$0.50	R	1953	\$ 1.00	5,607	\$1.00 ¹	²
2. Operator abstract.....	0.50	R	1951	1.00	36,914	1.00 ¹	G

¹ Agency recommended fee of at least \$1.00.

² 85% of receipts deposited in general fund, 15% of receipts deposited in earmarked revenue fund for highway patrolmen's retirement.

REMARKS

Recommended adjustments will result in \$21,000 additional annual revenue to the general fund and about \$420 additional annual revenue to the highway patrolmen's account in the earmarked revenue fund.

STATE BOARD OF LAND COMMISSIONERS

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1962	Council Recommendation	Fund
1. Grazing and agricultural assignment.....	\$1.00	R	1927	\$3.00	584 ¹	\$3.00 ²	G
2. Assignment of lease or purchase certificate.....	1.00	R	1927	3.00	37 ³	3.00	G
3. Release of mortgage.....	1.00	R	1947	2.00	100 ⁴	2.00	G
4. File mortgage.....	1.00	R	1947	2.00	360 ⁵	2.00	G
New Fee							
5. Grazing or agricultural sublease.....	.....	R	.....	.....	.....⁶	2.00 ⁷	G

¹ 1,167 issued during 2 year period.

² Agency recommended \$5.00 fee.

³ 74 issued during 2 year period.

⁴ 200 issued during 2 year period.

⁵ 721 issued during 2 year period.

⁶ Estimated 500 subleases per year.

⁷ Agency recommended \$2.00 fee.

REMARKS

It is recommended that the fee for a grazing or agricultural assignment be increased from \$1.00 to \$3.00. Issuing a lease involves entering the information on permanent records of the land office, filing the assignment, issuing a receipt, checking to see if the lease is in good standing, approval from mortgagee if any, mailing of assignment to leasee, and accounting for fee collections. The Commissioner estimates that the direct salary costs alone amount to \$2.50 per assignment issued. It is also recommended that the fee for assignment of lease or purchase certificate be increased from \$1.00 to \$3.00. The Commissioner estimates that direct salary costs of collecting this fee and providing the service are in excess of \$3.50. It is further recommended that the fees for filing and releasing mortgages be increased from \$1.00 to \$2.00. Direct salary costs of providing this service are about \$1.25. An additional fee of \$2.00 for filing a grazing or agricultural sublease is also recommended. Costs of issuing a sublease, for which no fee is charged at present, are approximately the same as those for a grazing or agricultural assignment—direct salary costs alone of \$2.50 per assignment. These adjustments will result in \$2,700 additional annual revenue to the general fund.

BOARD OF RAILROAD COMMISSIONERS

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1962	Council Recommendation	Fund
1. Common carrier permits.....	\$15.00	I	1931	\$46.00	38	\$15-35.00 ¹	G

¹ Agency recommended that fee be based upon the number of counties into which the carrier operates and graduated from \$25.00 to \$50.00 Council recommended fee is based upon number of counties into which carrier operates as recommended by agency.

REMARKS

It is recommended that the present fee of \$15.00 for a common carrier permit be adjusted by setting the fee at \$15-35.00 based upon the number of counties for which authority is requested. Because there is a single fee at the present time, carriers sometimes request authority for the entire state, or for more counties than they actually intend to serve. As a result, unnecessary expenses are incurred in notifying all carriers who will be affected by the request and allowing them an opportunity to appear before the Commission. The adjustment would effect a savings in costs and simplification of procedure for issuing permits more than add additional revenue to the general fund.

REGISTRAR OF MOTOR VEHICLES

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1962	Council Recommendation	Fund
1. File lien, satisfaction, and release.....	\$1.00	R	1945	\$2.00	83,955	\$2.00	ER ¹
2. Copy of chattel mortgage, etc.....	0.50	R	1945	1.00	525	2.00	ER ¹
3. Certificate of ownership and transfer.....	1.00	R	1933	3.00	150,595	2.00	ER ²
4. Duplicate certificate of registration, title.....	1.00	R	1953	1.00	34,346	2.00	ER
5. Transfer dealer registration.....	1.00	R	1919	3.00	12	2.00	ER
6. State assignment of motor number.....	1.00	R	1925	3.00	0	2.00	ER
7. Temporary windshield sticker.....	1.00	R	1955	1.00	3,766	2.00	ER

¹ Council recommends placing receipts in the general fund.

² Council recommends that one-half the receipts be allocated to cities and counties for streets and roads.

REMARKS

All fees collected by the Registrar are now deposited in an account in the earmarked revenue fund. The general purpose of the fees is to pay salaries and office expenses of the Registrar and expenses of the prison license plate factory. The balance in the account accumulates, and the Board of Examiners is authorized by Sec. 53-122, R.C.M. 1947 to distribute a part of any surplus to the fifty-six counties of the state pro rated on the total number of motor vehicles registered in the counties. No surpluses have been distributed since fiscal 1949-50. In 1961 the county commissioners requested that the Board declare a surplus and distribute the money, but the Board refused.

Section 53-122, which authorizes distribution of surpluses in the Registrar's account to the counties, refers to fees charged for filing liens, satisfaction of liens, release of liens, and copies of mortgages; certificates of ownership and transfer; and duplicate certificates of ownership and title. The statutes do not provide specifically for the disposition of money from other fee collections.

From 1953 through 1959 "as much as may be necessary" was appropriated from the motor vehicle recording fund (now an account in the earmarked revenue fund) to the Registrar and to the prison license plate factory. For the 1961-63 biennium, "as much as may be necessary" was again appropriated to the Registrar, and a line amount of \$53,000 each year was appropriated to the state prison to defray costs of maintaining the office and providing prison labor. For the 1963-65 biennium, amounts of \$350,000 and \$355,000 were appropriated to the Registrar, and \$50,000 each year was appropriated to the State Prison.

The Registrar's account in the earmarked revenue fund increased from \$179,000 in 1958 to \$337,000 in 1961, and then declined to \$301,000 in 1963. A part of the reason for the decline in the balance is the appropriation of about \$50,000 per year to the State Prison since 1961.

Excluding the amount appropriated to the State Prison each year, fee collections by the Registrar are in excess of present expenditures. In fact, the account has accumulated a balance of more than \$300,000. This does not, however, necessarily indicate that the Registrar will not need additional revenue to operate the office in the future. A number of needed improvements may have been deferred during the past years such as capital expenditures for office equipment and improvements to the license plate factory. However, present plans are to use the balance in the account to meet these non-recurring capital needs. In determining fee adjustments and the disposition of additional revenue, increased needs of the Registrar's office should be considered. Even without fee adjustments revenue can be expected to increase, however, and this increase may compensate for increased costs of operation. Moreover, the annual appropriation to the State Prison provides a "safety valve" by which the legislature can regulate the Registrar's account. By increasing or decreasing this appropriation, the legislature can regulate the account balance.

It is recommended that \$2.00 be set as the minimum for fees collected by the Registrar of Motor Vehicles except for the \$1.00 fee for transit permits which is coupled directly to a \$100.00 fee for a drive-away or tow-away permit. Adoption of a \$2.00 minimum fee will result in adjustments in seven fees collected by the Registrar.

The Council also recommends that revenue from two fees—filing liens and copies of chattel mortgages — be placed in the general fund. It is believed that the filing of liens, satisfactions, releases, and copies of mortgages are specific services to a creditor rather than acts directly connected with the “registration, operation or use of vehicles on the public highways” mentioned in the anti-diversion provision of the Constitution.

It is further recommended that the \$1.00 fee for original and duplicate certificates of ownership or title be increased to \$2.00, and that one-half the receipts be deposited in the Registrar’s account and one-half of the receipts be allocated to cities and counties for streets and roads based upon the number of automobiles registered to owners within the cities and those registered to owners outside the cities. These fees are included within the anti-diversion provision of the Constitution, but their use for streets and roads is in complete accord with that provision. This procedure will provide direct relief for the tax burden on property for the support of local government. Additional revenue from other fee adjustments would continue to be deposited in the Registrar’s account.

If these adjustments are made, it is estimated that the state will realize \$274,000 additional annual revenue. Of this total, the general fund will receive \$85,000 annually, \$151,000 annually will be distributed to local governments for direct property tax relief, and the Registrar’s account will receive \$47,000 less annually.³ The decrease in revenue in the Registrar’s account should not, however, present serious problems in financing that office. Although during the fiscal year ended June 30, 1963, expenditures (\$374,239 including \$50,000 appropriated to the State Prison for support and prison labor) did exceed fee collections (\$369,979), the Registrar’s account still has a balance of more than \$300,000. If other fee collections do not increase enough to compensate for the \$47,000 annual loss in revenue to the Registrar’s account, the legislature can either: (1) continue to appropriate about \$50,000 annually to the State Prison and decrease the account balance, or (2) discontinue the prison appropriation and maintain a balance in the Registrar’s account.

³ About \$85,000 revenue now deposited in the Registrar’s account will be placed in the general fund, and revenue from fee collections which continue to be deposited in the Registrar’s account will increase about \$38,000 resulting in a net decrease of revenue to the Registrar’s account of \$47,000.

SUPERINTENDENT OF PUBLIC INSTRUCTION

Fee	Amount	Period	Last Changed	Projected	Number Fiscal 1963	Council Recommendation	Fund
1. Teacher certificate.....	\$1.00	¹	1949	\$2.00	2,859	\$2.00	G
2. Text book license.....	1.00	²	1941	3.00	.....	2.00	G

¹ Fee is \$1.00 per year. Certificates valid for 1, 2, or 5 years. In addition, a \$2.00 filing fee is charged upon initial certification.

² Fee of \$1.00 per item listed. If several books by one publisher cover the same subject under the same series for any one grade, maximum fee is \$3.00.

REMARKS

Adoption of these recommendations will result in about \$13,000 additional annual revenue to the general fund.

APPENDIX

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO SURETY BONDS FOR STATE OFFICERS AND EMPLOYEES; PROVIDING THAT THE STATE CONTROLLER SHALL PURCHASE ALL SURETY BONDS FOR STATE OFFICERS AND EMPLOYEES; ESTABLISHING REQUIREMENTS AND PROCEDURES FOR THE PURCHASE OF SUCH BONDS; AMENDING SECTIONS 5-602, 6-325, 6-326, 6-331, 3-103, 3-205, 4-106, 4-110, 5-603, 26-102, 26-111, 26-115, 27-404, 32-1601, 36-1602, 40-1727, 41-1603, 44-404, 53-101, 66-407, 66-514, 66-904, 66-1505, 66-2203, 66-2333, 71-202, 71-203, 72-102, 75-303, 75-1301, 75-2703, 77-120, 80-1205, 81-201, 81-208, 81-1403, 81-2010, 81-2013, 82-107, 82-601, 82-1230, 82-3105, 89-103, 89-118, 90-122, R.C.M. 1947; AND REPEALING SECTIONS 3-407, 6-101, 6-102, 6-103, 6-104, 46-702, 66-810, 77-1004, 79-809, 82-404, 82-507, 82-1013, 82-1907, 82-2213, 92-106 AND 92-107, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA:

Section 1. The state controller shall purchase all surety bonds for state officers and employees. As used in this act, the term "state officers and employees" does not include notaries public, supreme court justices, district court judges or members and employees of the legislative assembly. A bond may cover an individual officer or employee or a group of officers and employees. The form of all bonds shall be prescribed by the controller, subject to the approval of the attorney general.

Section 2. All state officers and employees shall be bonded. Before determining the amount for which a state officer or employee shall be bonded, the controller shall consult with the head of the institution or agency involved and the head of the agency responsible for the examination or post auditing of state agencies. All bonds shall be purchased by competitive bid.

Section 3. Bonds purchased by the state controller shall be executed by responsible insurance or surety companies admitted and authorized to execute surety bonds in this state.

Section 4. The state controller shall prorate the premiums for bonds covering more than one state agency or institution among the state agencies and institutions whose officers and employees are covered. Such proration shall be based on the risk of bonding the officers and employees of each agency or institution. The controller shall order payment of the prorated amount from moneys which are available to such agencies or institutions for the payment of general administrative expenses.

Section 5. This act shall not affect the validity of bonds in effect on the effective date of this act.

NOTE: Sections 6 through 51 of this bill are only amendments and repeals of existing statutes to bring the code into conformity with the above basic legislation. Consequently, they are not reproduced in this report. The code sections affected are listed in the title.



